

IN THE CIRCUIT COURT OF TANEY COUNTY, MISSOURI

STATE OF MISSOURI, ex rel.)
JEREMIAH W. (JAY) NIXON,)
Attorney General,)
)
Plaintiff,)
)
v.)
)
TOMMY TRAN, INC. D/B/A)
WORLD OF VACATIONS)
)
TOMMY TRAN)
)
and)
)
TROY DANIEL BRATZ)
)
Defendants.)

Case No. 04AF-CV00727

CONSENT JUDGMENT AND PERMANENT INJUNCTION
OF TOMMY TRAN, INC. D/B/A WORLD OF VACATIONS,
AND TOMMY TRAN,

COMES NOW the State of Missouri, plaintiff, by and through Jeremiah W. (Jay) Nixon, the duly elected, qualified and acting Attorney General of the State of Missouri, and his assistant Stewart M. Freilich, a duly appointed, qualified and acting Assistant Attorney General of the State of Missouri, duly authorized to act on behalf of the Attorney General in this matter, and defendants Tommy Tran Inc., d/b/a World of Vacations, and Tommy Tran by and through their attorney Dayrell L. Scrivner and agree to entry of this Consent Judgment and Permanent Injunction. Plaintiff and defendants allege and state as follows:

WHEREAS, plaintiff filed a petition against defendants on August 24, 2004 alleging violations of the Missouri Merchandising Practices Act, Section 407.010 to 407.145¹ and the Missouri Buyers Club Law, Section 407.670 to 407.679;

WHEREAS, plaintiff and defendants agree that the State of Missouri is authorized to bring this action and the Attorney General is authorized to represent the interests of the State of Missouri; and

WHEREAS, plaintiff and defendant have read and reviewed this Consent Judgment and Permanent Injunction; and

WHEREAS, plaintiff and defendants agree that this Court is the proper Court of venue and jurisdiction under the Merchandising Practices Act and the Buyers Club Law, and has jurisdiction over the parties and subject matter of this action; and

WHEREAS, defendants sold vacation travel club memberships to consumers in Club Resort Intervals, LLC, which memberships constitute merchandise within the meaning of Section 407.010; and

WHEREAS, defendants acknowledge that the vacation travel club memberships which they sold in Club Resort Intervals, LLC are memberships in a Buyer's Club as defined by Section 407.671, and are subject to the provisions of Sections 407.670 to 407.679.

WHEREAS, defendants have engaged in practices in the State of Missouri set forth in paragraphs 27-34 and 35-38 of the petition which violate the provisions of the Merchandising

¹ All references unless otherwise noted are to Missouri Revised Statutes 2000.

Practices Act and the Buyers Club Law; and

WHEREAS, plaintiff and defendants have agreed to resolve plaintiff's lawsuit by entry of this Consent Judgment and Permanent Injunction; and

WHEREAS, plaintiff and defendants recommend that the Court approve this Consent Judgment and Permanent Injunction the terms of which are set out below as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this Court finds that this Consent Judgment and Permanent Injunction constitutes a fair and adequate settlement of the issues involved in this case and that this Court is the proper Court of venue and jurisdiction under the Merchandising Practices Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendants Tommy Tran Inc. d/b/a World of Vacations and Tommy Tran and their officers, agents, servants, employees, sales persons, contractors, representatives, and other individuals acting on their behalf or at their direction who receive actual notice of this order are permanently enjoined and restrained from violating the Buyers Club Law § 407.670 - 407.679, in connection with the sale of vacation travel club memberships, specifically including the following methods, acts and practices:

- a. Selling memberships in a vacation travel club or buyers club in the State of Missouri without fully complying with the provisions of § 407.670-407.679.
- b. Operating a vacation travel club or buyers club in the State of Missouri without fully complying with the provisions of § 407.670 to 407.679.

- c. Violating § 407.672 by failing to honor written notices of cancellation submitted by consumers within three business days of purchase and by failing to provide refunds to such purchasers.
- d. Violating § 407.673 by entering into contracts with consumers for the sale of vacation travel club memberships (which constitute membership in a buyers club) which fail to contain the statutory notice of the members right to cancel the contract within three business days of purchase.
- e. Violating § 407.672 and 407.673 by advising purchasers of vacation travel club memberships that they do not have a right to cancel their memberships within three business days of their purchase.
- f. Violating § 407.677.2 (4) by representing that they offer purchasers of vacation travel club memberships the lowest prices on vacation and travel services, including but not limited to airlines, hotels, cruise lines, automobile rental companies, condominiums, or golf and resort packages, when, in fact, such representation is not true.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendants Tommy Tran, Inc. d/b/a World of Vacations and Tommy Tran and their officers, agents, servants, employees, sales persons, contractors, representatives, and other individuals acting on their behalf or at their direction who receive actual notice of this order are permanently enjoined and restrained from violating § 407.020, in connection with the sale of vacation travel club

memberships, specifically including the following methods, acts or practices:

- a. Representing that they offer purchasers of vacation travel club memberships the lowest prices on vacation and travel services, including but not limited to airlines, hotels, cruise lines, automobile rental companies, condominiums, or golf and resort packages, when, in fact, such representation is not true.
- b. Misrepresenting the ability and ease with which purchasers of travel club memberships will be able to obtain various travel services.
- c. Representing to consumers that by purchasing a vacation travel club membership the consumer will have access to discounted rates or rates otherwise not available to the public at large on travel services, including but not limited to, airlines, hotels, cruise lines, automobile rental companies, condominiums, or golf and resort packages unless the same is true.
- d. Representing the prices or terms at which vacation travel club members will be able to obtain travel services unless such prices and terms are true and currently available to the member.
- e. Utilizing any pricing or sales strategy that references any price which is not a bona fide regular price as set forth in 15 CSR 60-7.060.
- f. Imposing extremely short time limitations on consumers purchasing decisions.
- g. Requiring a decision on the purchase of a vacation travel club membership before the consumer leaves the sales meeting.

- h. Representing to consumers that a price/offer for the purchase of a vacation travel club membership is available for “one day only” or is only available “now”.
- i. Failing to allow consumers to review the written materials provided to them in sales meetings prior to their purchase of a vacation travel club membership.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendants Tommy Tran Inc. d/b/a World of Vacations, and Tommy Tran are hereby jointly and severally liable for and shall pay or cause payment to be made in the sum of \$13,545.00 to the State of Missouri to the credit of the Merchandising Practices Restitution Fund as restitution to the following consumers who purchased travel club memberships from defendants:

<u>Consumer</u>	<u>Amount</u>
Don M. Long	\$2,898.00
Shirley M. Bennett	\$1,495.00
Charles J. Dolles	\$1,995.00
Janice Thalmann	\$2,398.00
Wilbur Baumann	\$2,495.00
Dorothy Vance	\$769.00
Barbara Polette	\$1,495.00

The Attorney General shall cause the restitution to be forwarded by U.S. mail to each purchaser.

Two additional consumers originally paid Defendants for a travel club membership in

the following amounts: Earl & Evelyn Martin-\$6,000.00 and Saundra L. Spears-\$2,898.00. Martin and Spears credit card accounts were re-credited by their credit card companies after they disputed the charges. In the event, that the credit card company's should recharge the accounts of Martin or Spears and seek payment from Martin or Spears, Defendants Tommy Tran, Inc. d/b/a World of Vacations and Tommy Tran shall be jointly and severally liable for and shall pay or cause payment to be made for the full amount paid by the consumer for the purchase of the travel club membership as set out above. Payment shall be made to the State of Missouri to the credit of the Merchandising Practices Restitution Fund.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Tommy Tran Inc. d/b/a World of Vacations, and Tommy Tran are hereby jointly and severally liable for and shall pay or cause payment to be made in the sum of \$3,000.00 to the State of Missouri to the credit of the Merchandising Practices Revolving Fund to reimburse the Attorney General for attorneys' fees and costs incurred by the Attorney General in the investigation and enforcement of the Merchandising Practices Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that payment of restitution and for attorneys fees and costs shall be made pursuant to the following schedule:

\$2,000.00 at the time this consent judgment is signed by defendants

\$500.00 on the 1st day of each month beginning June 1, 2005 until the balance is paid in full.

In the event, defendants fail to make any payment when due, the Attorney General may, at his

option, declare the entire unpaid balance due and payable immediately and may seek a reasonable attorneys' fee if required to pursue collection of same, including execution thereon. Defendant waives any right to notice of default and any opportunity to cure same except by payment of the unpaid balance in full.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that jurisdiction is retained by this Court for the purpose of enforcing this Consent Judgment and Permanent Injunction.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General

By: _____
Stewart M. Freilich
Assistant Attorney General

TOMMY TRAN INC. D/B/A WORLD OF VACATIONS

By: _____
Tommy Tran, President

TOMMY TRAN

Tommy Tran

APPROVED BY COUNSEL FOR DEFENDANTS:

Dayrell L. Scrivner
Attorney at Law

SO ORDERED AND APPROVED

Dated: _____

James L. Eiffert
Circuit Judge

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, _____, Notary Public, do hereby certify that on this ____ day of _____, 2005, personally appeared before me Stewart M. Freilich, who, being first duly sworn upon his oath, declared that he executed the foregoing as Assistant Attorney General and that he was authorized to do so by Jeremiah W. (Jay) Nixon, the duly elected, qualified and acting Attorney General of the State of Missouri, for the purposes stated herein.

Notary Public

My commission expires: _____

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

I, _____, Notary Public, do hereby certify that on this ____ day of _____, 2005, personally appeared before me Tommy Tran, who, being first duly sworn upon his oath, declared that he did execute the foregoing on behalf of Tommy Tran, Inc., d/b/a World of Vacations and on his own behalf and did so for the purposes stated herein.

Notary Public

My commission expires: _____

